

JODY FORD MCCREARY, #1694118 §
VS. § CIVIL ACTION NO. 6:15cv839
DIRECTOR, TDCJ-CID §

Petitioner Jody Ford McCreary, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging his Smith County conviction for tampering with physical evidence. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition should be dismissed for lack of subject matter jurisdiction because Petitioner had not received permission from the Fifth Circuit to file a successive petition. Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having

made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #7) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice for lack of subject matter jurisdiction. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**. It is finally

ORDERED that the Clerk of Court shall return unfiled any new petitions for a writ of habeas corpus submitted by Petitioner regarding his conviction unless he shows that he received permission from the Fifth Circuit to file it.

It is SO ORDERED.

SIGNED this 9th day of October, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE